



**Rule and Interpretive/Policy Statement Review Checklist**  
(This form must be filled out electronically.)

**This form is to be used when the current version of the rule(s) has/have not previously been reviewed. When reviewing an interpretive or policy statement, this document is to be used only if the review of the statement is not in conjunction with the review of a rule.**

All responses should be **bolded**.

Document(s) Reviewed (include title): **WAC 458-20-107, Selling price – Advertised prices including sales tax.**

Date last adopted/issued: **5/2/1990**

Reviewer: **PAT MOSES**

Date review completed: **10/22/2002**

Briefly explain the subject matter of the document(s):

- Rule 107 provides administrative information and interpretation concerning implementation of RCW 82.04.050 and 82.04.055. The rule explains that the sales tax must be “stated separately from the selling price on any sales invoice....” However, the rule also explains that sellers may advertise selling prices of goods and services at a price inclusive of retail sales tax under certain conditions that are described in the rule. The rule also explains in detail the special display requirements if advertised prices include the sales tax.**

Type an “X” in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

**1. Public requests for review:**

YES	NO	
	<b>X</b>	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

If “yes,” provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

**2. Need:**

YES	NO	
<b>X</b>		Is the document necessary to comply with the statutes that authorize it? (E.g., Is it necessary to comply with or clarify the application of the statutes that are being implemented? Does it provide detailed information not found in the statutes?)
	<b>X</b>	Is the information provided in the document so obsolete that it is of little value, warranting the repeal or revision of the document?
	<b>X</b>	Have the laws changed so that the document should be revised or repealed?



		(If the response is “yes” that the document should be repealed, explain and identify the statutes the rule implemented, and skip to Section 10.)
<b>X</b>		Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of Washington), or safety of Washington’s citizens? (If the response is “no”, the recommendation must be to repeal the document.)

Please explain.

- **Buyers have a right to know whether retail sales tax is being included in advertised prices. The sales tax may not be used to create a competitive advantage or disadvantage between retail sellers. Rule 107 gives specific guidelines in this area so that both taxpayers and agency staff can determine whether sales tax has been included in a selling price, and how much sales tax is included. In this manner the rule promotes consistency and fairness.**

### 3. Related interpretive/policy statements, court decisions, BTA decisions, and WTDs:

Complete Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an interpretive or policy statement. Excise Tax Advisories (ETAs), Property Tax Advisories and Bulletins (PTAs/PTBs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.

(a)

YES	NO	
<b>X</b>		Are there any interpretive or policy statements that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	<b>X</b>	Are there any interpretive or policy statements that should be cancelled because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	<b>X</b>	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that provide information that should be incorporated into this rule?
<b>X</b>		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

(b)

YES	NO	
		Should this interpretive or policy statement be incorporated into a rule?
		Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that affect the information now provided in this document?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?



If the answer is “yes” to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

- See prior review, dated 11/30/1999, for comments and ancillary document reviews concerning incorporation of ETA’s 069, 101, and 201.
- 20 WTD 47 (2001) explains that over-collected sales tax must be remitted to the state if it is not returned to the purchaser. In the WTD, the taxpayer complained that it was unaware of any rule regarding over-collected sales tax. This rule would be an appropriate and effective place for that information.

#### 4. Clarity and Effectiveness:

YES	NO	
X		Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.)
X		Is the document providing the result(s) that it was originally designed to achieve? (E.g., does it reduce the need for taxpayers to search multiple rules or statutes to determine their tax-reporting responsibilities or help ensure that the tax law and/or exemptions are consistently applied?)
	X	Do changes in industry practices warrant repealing or revising this document?
	X	Do administrative changes within the Department warrant repealing or revising this document?

Please explain.

- This rule is clear and concise. There have been very few additional administrative determinations needed since the rule’s last revision in 1990. This supports a conclusion that the rule is clear and effective.

#### 5. Intent and Statutory Authority:

YES	NO	
X		Does the Department have sufficient authority <b>to adopt</b> this document? (Cite the statutory authority in the explanation below.)
X		Is the document consistent with the legislative intent of the statute(s) that authorize it? (I.e., is the information provided in the document consistent with the statute(s) that it was designed <b>to implement</b> ?) If “no,” identify the specific statute and explain below. List all statutes being implemented in Section 9, below.)
	X	Is there a need to recommend legislative changes to the statute(s) being implemented by this document?

Please explain.

- The department’s authority to make and publish rules is contained in RCW 82.01.060(2) and RCW 82.32.300.



**6. Coordination:** Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	X	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain.

- **The subject matter and tax-reporting responsibilities discussed in Rule 107 are the specific domain of the Department of Revenue.**

**7. Cost:** When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	X	Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer “yes” only if a Cost Benefit Analysis was completed when the rule was last adopted or revised.)

Please explain.

- **This is an interpretive rule that imposes no new or additional administrative burdens on businesses that are not already imposed by the law.**

**8. Fairness:** When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
X		Does the document result in equitable treatment of those required to comply with it?
	X	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
	X	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?

Please explain.

- **Rule 107 aids taxpayers by giving specific instructions on the posting and advertising of retail prices. This helps assure that retail sellers have no unfair competitive advantage as a result of the sales tax, and that consumers may know the sales tax has been legally and appropriately collected for remission to the state. The rule also promotes consistent and fair application of the related statutes on the part of DOR staff.**



**9. LISTING OF DOCUMENTS REVIEWED:** Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented: **No additional implementing statutes since this Rule’s last review in 1999.**

Interpretive and/or Policy Statements (e.g., ETAs, PTAs, IAGs): **No additional interpretive or policy statements since this Rule’s last review in 1999.**

Court Decisions: **None**

Board of Tax Appeals Decisions (BTAs): **None**

Appeal Division Decisions (WTDs):

- **19 WTD 363 (2000) – There is a presumption that the stated price of an item does not include retail sales tax unless the amount of sales tax is separately stated.**
- **20 WTD 47 (2001) – Over-collected retail sales tax may not be retained by the seller for its own use, but is held in trust and must be remitted to the state if not returned to the purchasers.**

Attorney General Opinions (AGOs): **None**

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed): **None**

#### **10. Review Recommendation:**

- ☐ **Amend**
- ☐ **Repeal/Cancel** (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.)
- ☒ **Leave as is** (Appropriate even if the recommendation is to incorporate the current information into another rule.)
- ☐ **Begin the rule-making process for possible revision.** (Applies only when the Department has received a petition to revise a rule.)



**Explanation of recommendation:** Provide a brief summary of your recommendation. If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, and court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, and court decisions).

**The rule is correct as is. No significant changes in law have occurred for this topic since the rule's last revision in 1990. While there is no need at this time to revise this rule, ETA 069, 101, and 201 contain material that should be incorporated into the rule at its next revision (refer to prior review of this rule, dated 1999). Also, 20 WTD 47 (2001) contains information on over-collected sales tax that should be incorporated at that time.**

**11. Manager action:** Date: \_\_\_\_\_

\_\_\_\_\_ Reviewed and accepted recommendation

Amendment priority:

- \_\_\_\_\_ 1
- \_\_\_\_\_ 2
- \_\_\_\_\_ 3
- \_\_\_\_\_ 4